

House Bill 1070

By: Representatives Loudermilk of the 14th, Hill of the 21st, Lunsford of the 110th, Mosley of the 178th, Reece of the 11th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to the Department of Driver Services, so as to create a procedure for verifying any claim of legal domicile or residence in Georgia for any purpose for which legal residence or domicile is required by law; to provide for exceptions; to provide for a list of valid identification documents; to provide for the promulgation of regulations; to provide for penalties; to provide for judicial review; to provide for related matters; to provide an effective date; to provide for applicability; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 16 of Title 40 of the Official Code of Georgia Annotated, relating to the Department of Driver Services, is amended by inserting immediately following Code Section 40-16-2.1 three new Code sections to read as follows:

"40-16-2.2.

(a)(1) Except where otherwise required by state or federal law, a person who is unlawfully present in the United States in violation of federal immigration law is not legally resident or domiciled in Georgia.

(2) Except as provided in subsection (b) of this Code section or where exempted by federal law, every agency of Georgia or a political subdivision thereof shall verify the lawful presence in the United States of any natural person who has made a claim of legal residence or domicile in Georgia for any purpose for which legal residence or domicile is required by law, ordinance, or regulation.

(3) Verification of lawful presence under this Code section shall not be required for any purpose for which legal residence or domicile in Georgia is not required by law, ordinance, or regulation.

(4) Verification of lawful presence under this Code section shall not be required to receive emergency services or for services related to domestic violence.

(b)(1) The following persons shall be deemed to be presumptively lawfully present in the United States:

(A) A citizen of the United States; or

(B) An alien who presents a valid identification document that is included on the list of documents to be created, maintained, and published by the department as proof of lawful presence in the United States.

(2) A driver's license or identification card issued by any state which, on or after July 1, 2006, authorized such driver's license or identification card to be issued to persons not lawfully present in the United States may not be accepted as evidence of lawful presence in the United States.

(c) This Code section shall be enforced without regard to race, religion, gender, ethnicity, or national origin.

(d)(1) Verification of lawful presence in the United States by the agency required to make such verification shall occur as follows:

(A) By presentation of an unexpired valid document described in subsection (b) of this Code section; or

(B) Where a document described in subsection (b) of this Code section has not been presented, by a determination that the person for whom verification is required is a United States citizen or national. A person may attest, under penalty of perjury, that he or she is a United States citizen or national.

(2) A document or attestation may be verified by the agency or political subdivision to detect identity or document fraud and false statements. Until such verification is made, the document or attestation may be presumed to be proof of lawful presence for the purposes of this Code section.

(3) In the case of an applicant for state or local public benefits, as defined in 8 U.S.C. Section 1621, or of an applicant for federal public benefits, as defined in 8 U.S.C. Section 1611, that is administered by an agency of Georgia or a political subdivision thereof, the verification described in paragraph (1) of this subsection shall be made through the Systematic Alien Verification of Entitlement (SAVE) program operated by the United States Department of Homeland Security or a successor program designated by the Department of Homeland Security.

(e) In the case of a person arrested for a violation of a criminal statute, where verification has not otherwise been made under a procedure described in subsection (d) of this Code section, verification shall be made through a query to the Law Enforcement Support Center

(LESC) of the United States Department of Homeland Security or other office or agency designated for that purpose by the Department of Homeland Security.

(f) Discovery by an agency of Georgia or political subdivision thereof that a person subject to the verification requirements of this Code section has failed to establish lawful presence in the United States shall be reported to the department and to the United States Department of Homeland Security.

(g)(1) The department shall issue regulations, in accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' to implement the provisions of this Code section.

(2) With the concurrence of the department, other agencies of Georgia and political subdivisions thereof may adopt variations to such regulations to improve efficiency or reduce delay in the verification process or to provide for adjudication of unique individual circumstances where the verification procedures in subsection (d) of this Code section would impose unusual hardship on a legal resident of Georgia.

40-16-2.3.

(a) It shall be unlawful for any person knowingly to present a personal identification document issued by a foreign government as evidence or proof of legal residence or domicile in Georgia for any purpose, unless such document is included on the published list of documents created and maintained by the department as required by subparagraph (b)(1)(B) of Code Section 40-16-2.2 as proof of lawful presence in the United States.

(b) Any person who violates the provisions of this Code section shall be guilty of a misdemeanor.

40-16-2.4.

(a) Any person who believes that an agency or political subdivision of Georgia has failed to comply with the requirements of Code Section 40-16-2.2 may file a complaint in writing with the agency or political subdivision. The agency or political subdivision shall provide a response in writing within 60 days of receipt of the complaint or within 30 days in the case of a complaint of an erroneous determination that the person is not a legal resident of Georgia.

(b) A person with reasonable cause to believe that an agency or political subdivision of Georgia is engaged in any act or practice in violation of the provisions of Code Section 40-16-2.2 may, within 60 days after the receipt of the written response to such person's complaint under subsection (a) of this Code section, seek relief from any superior court in

1 Georgia having jurisdiction of the matter to remedy the failure giving rise to his or her
2 complaint, including mandamus, injunctive relief, and attorney's fees and costs.

3 (c) Upon a determination by a court of competent jurisdiction that any political subdivision
4 of this state has failed to comply with Code Section 40-16-2.2, such political subdivision
5 shall be thereafter ineligible to receive state funds in the next state fiscal year and until the
6 political subdivision demonstrates that it is in compliance with Code Section 40-16-2.2."

7 **SECTION 2.**

8 This Act shall become effective on July 1, 2006, and shall apply to proceedings initiated on
9 or after that date.

10 **SECTION 3.**

11 All laws and parts of laws in conflict with this Act are repealed.